

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

RAY LOY,

Petitioner,

v.

//

CIVIL ACTION NO.113CV117
(Judge Keeley)

EVELYN SEIFERT, Warden,
Northern Correctional Facility,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On March 28, 2013, the pro se petitioner, Ray Loy ("Loy"), filed a petition pursuant to 28 U.S.C. § 2254. (Dkt. No. 1). The Court referred this matter to United States Magistrate Judge John S. Kaull for initial screening and a report and recommendation in accordance with LR PL P 2. On July 24, 2013, the respondent, Evelyn Seifert ("Seifert"), filed a motion to dismiss the petition as untimely. (Dkt. No. 27). Two days later, on July 26, 2013, the magistrate judge issued an Opinion and Report and Recommendation ("R&R") in which he recommended that Seifert's motion to dismiss be denied, as "the petition is clearly timely." (Dkt. No. 29 at 5). Seifert filed a response in support of the R&R on July 30, 2013, conceding her error. (Dkt. No. 30). Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 29), **DENIES** the motion to dismiss (dkt. no. 27), and **ORDERS** Seifert to file an answer to the petition within **twenty-eight (28) days** from the date of the entry of this Order. Her answer shall comply with Rule 5 of

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the Rules Governing Section 2254 proceedings.

It is so **ORDERED**.

The Court directs the Clerk of Court to transmit copies of this Orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: July 30, 2013.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE